CITY OF IRVINE 1971

BETH KROM, Mayor

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August 22, 2007

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th and Constitution Avenue, NW
Washington, DC 20551

RE: Docket No. OP-1288

Dear Ms. Johnson:

As Mayor of the City of Irvine, I urge the Federal Reserve to expeditiously implement strong protections against abusive lending per the Federal Reserve's authority under the Home Ownership and Equity Protection Act (HOEPA). This position reflects the policy adopted by the U.S. Conference of Mayors in June 2007 which calls on "regulators to protect mortgage consumers from unfair practices, especially with respect to subprime loans that can lead to mortgage foreclosure." It is estimated that nearly two million families will face dire financial circumstances and/or foreclosure when the interest rates on their adjustable rate mortgages (ARMs) reset and climb higher this year and in 2008.

Homeownership is one of the most effective wealth-building tools available to American families. Homeownership is near its highest level in history with nearly 70% of the population purchasing their own homes in which many are first time home buyers. As you know, many homeowners are threatened with default and foreclosures as their subprime hybrid ARMs reset, resulting in significant payment shock. As a result, the rate of homeowners defaulting on home loans is increasing throughout the nation.

I encourage the Federal Reserve Board to enhance the protections contained in the recently adopted interagency statement on subprime mortgage lending (Federal Register, July 10, 2007). Strong limits and prohibitions must be applied to non-traditional and high-cost loans in order to prevent unfair and deceptive lending in violation of HOEPA:

- Prepayment penalties: The Federal Reserve must apply strict limits to prepayment penalties. Prepayment penalties must not apply after the expiration of teaser rates in ARM prime and subprime loans. The recent interagency statement on subprime lending recommends that lenders terminate prepayment penalties 60 days before the expiration of teaser rates. At least a 90 day time period is needed so that borrowers have sufficient time to shop and penalties must not extend beyond two years. Responsible lenders have voluntarily applied limits to prepayment penalties similar to our recommendation. Limiting prepayment penalties prevents borrowers from being trapped in abusive and predatory loans.

- Escrows for Taxes and Insurance: The Federal Reserve must require escrows for all loans: prime and subprime, fixed, and adjustable rates. Currently, since escrows are not required, deceitful lending flourished when unscrupulous brokers and lenders blind borrowers to the true cost of their loans by not discussing payments for insurance and taxes.

- Stated Income or Low Doc Loans: The Comptroller of the Currency has stated that stated income or low doc loans are prone to abuse when predatory lenders and brokers inflate borrowers' incomes to qualify them for unsustainable loans. Stated income or low doc loans must be prohibited on subprimes and/or ARM loans. At the very least, the Federal Reserve Board must establish clear protections and procedures for state income and low doc loans including the requirements that pay stubs, tax forms, and other acceptable verification of income must be received by the lender.

- Unaffordable Loans: A core plague of predatory lending is lending beyond borrower payment ability. The federal agencies have correctly identified that abusive lenders are underwriting ARM loans at initial and low rates, leaving borrowers vulnerable to rapid rate increases. The recent guidance on subprime lending requires underwriting at the fully-indexed rates. There are times when the LIBOR or other benchmark rates are low, meaning that the fully-indexed rate may be an artificially low rate for underwriting purposes. We understand that is was common industry practice to underwrite loans at two percentage points above the fully-indexed rate. The Federal Reserve must consider either some suitable cushion above the fully-indexed rate or the maximum possible rate stipulated in the loan contract. Finally, there should be a presumption that a loan is unaffordable if the borrower's debt-to-income ratio exceeds 50%.

Thank you for your consideration of this request. Investors, homeowners, servicer's, lenders, and communities all benefit when homeowners are able to avoid foreclosures. I am hopeful that the board will accept these recommendations when making its ruling.

Sincerely,

BETH KROM
Mayor

cc: Senator Diane Feinstein
Senator Barbara Boxer
Congressman John Campbell
Sean Joyce, City Manager
Wally Kreutzen, Assistant City Manager